

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

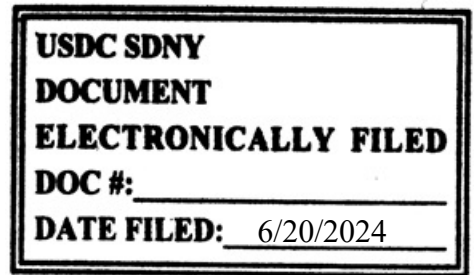
HOPETON FRANCIS,

Plaintiff,

-against-

CITY OF NEW YORK, ET AL.,

Defendants.



24-CV-02530 (MMG)

ORDER OF SERVICE

MARGARET M. GARNETT, United States District Judge:

Plaintiff, who is currently incarcerated at the Eric M. Taylor Center on Rikers Island, brings this action, *pro se*, under 42 U.S.C. § 1983, alleging that he was denied adequate medical care. By order dated April 10, 2024, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees. Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

By order dated May 7, 2024, the Court requested that Defendants waive service of summons. Dkt. No. 9. In a submission dated June 6, 2024, the New York City Department of Correction ("DOC"): (1) declined to waive service on behalf of C.O. Garcia because the complaint did not provide sufficient information to identify that individual; and (2) declined to waive service

¹Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until 90 days after the date any summonses issue.

on behalf of “Nurse Collette,” because that individual is not a DOC employee. Dkt. No. 12. In a subsequent email, New York City Health & Hospitals identified “Nurse Collette” as Colette Raspanti and provided a service address.

A. Order of Service

To allow Plaintiff to effect service on Defendant Colette Raspanti through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendant Raspanti. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendant Raspanti.

If the complaint is not served within 90 days after the date the summons is issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

B. C.O. Garcia

DOC has indicated that there is insufficient information in the complaint for it to establish the identity of C.O. Garcia. Within thirty days of the date of this order, Plaintiff is directed to submit to the Court a letter providing more detailed, descriptive information for C.O. Garcia to assist the New York City Law Department in properly identifying this Defendant. Within thirty days after Plaintiff provides this information, the New York City Law Department shall, if possible, identify C.O. Garcia.²

² If C.O. Garcia is a current or former DOC employee or official, the New York City Law Department should note in the response to this order that service should be made electronically, under the e-service agreement for cases involving DOC defendants. If the person is or was employed at a DOC facility, but is not a current or former employee of DOC, the New York City Law Department must provide a home address where the individual may be served.

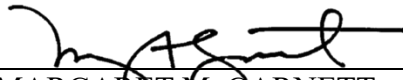
CONCLUSION

The Clerk of Court is instructed to: (1) update the docket to reflect that Defendant “Nurse Collette’s” real name is Colette Raspanti; (2) complete the USM-285 form with the address for Colette Raspanti; and (3) deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is further directed to mail a copy of this order and the complaint to the New York City Law Department at: 100 Church Street, New York, N.Y. 10007.

SO ORDERED.

Dated: June 20, 2024
New York, New York



MARGARET M. GARNETT
United States District Judge

SERVICE ADDRESS FOR DEFENDANT

Colette Raspanti
c/o G. Renee Tarver
H&H Correctional Health Services
49-04 19th Avenue, 1st Floor
Astoria, New York 11105